

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2014-112702-001 DT

11/06/2014

HONORABLE BRUCE R. COHEN

CLERK OF THE COURT
B. McDonald
Deputy

STATE OF ARIZONA

NICHOLAS D MICHAUD

v.

KYLE EDWARD SMITH (001)
DOB: 10/13/1990

DAVID L ANDERSON

APO-SENTENCINGS-CCC
APPEALS-CCC
DISPOSITION CLERK-CSC
RFR

SUSPENSION OF SENTENCE - PROBATION GRANTED

10:26 a.m.

Courtroom SCT 6B

State's Attorney:	Nicholas Michaud
Defendant's Attorney:	David Anderson
Defendant:	Present

Court Reporter, Gail Ferguson, is present.

A record of the proceeding is also made by audio and/or videotape.

The parties concur that there was a miswording of the plea agreement filed with the Clerk of Court on September 30, 2014. The parties are not stipulating that the Defendant shall serve no jail term as set forth therein; rather the actual agreement should state that "the State is not recommending any additional jail term for Defendant." The Court is therefore proceeding under this recommendation rather than as a stipulation between the parties.

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Count(s) 1: WAIVER OF TRIAL: The Defendant knowingly, intelligently and voluntarily waived all pertinent constitutional and appellate rights and entered a plea of guilty.

IT IS THE JUDGMENT of the Court Defendant is guilty of the following:

OFFENSE: Count 1 Amended: Attempt to Commit Possession of Marijuana for Sale

Class 5 Felony

A.R.S. § 13-3401, 3405, 3418, 1001, 701, 702, 801

Date of Offense: March 16, 2013

Non Dangerous - Non Repetitive

Pursuant to A.R.S. § 13-3401, the Court finds the aggregate amount of drugs is less than the statutory threshold amount.

The Court is suspending imposition or execution of sentence and, under the supervision of the Adult Probation Department (APD), placing the Defendant on probation for:

Count 1 Probation Term: 2 years

To begin November 6, 2014.

Condition 6: Report to the APD within 72 hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. Keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation. Provide DNA testing if required by law.

Condition 8 - Request and obtain written permission of the APD prior to leaving the state.

Condition 15: Restitution, Fines and Fees:

PROBATION SERVICE FEE: Count 1 - \$65.00 per month, beginning 02/01/2015.

FINE: Count 1 - Total amount of \$3660.00, which includes surcharges of 83%, payable \$35.00 per month beginning 02/01/2015.

Fine is to be paid to the Arizona Drug Enforcement Fund.

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PROBATION ASSESSMENT: Count 1 - \$20.00 payable on 02/01/2015.

Count 1: Time payment fee pursuant to A.R.S. § 12-116 in the amount of \$20.00 payable on 02/01/2015.

INTER-COUNTY TRANSFER FEE: Count 1 - \$150.00, payable in an amount to be determined by the Adult Probation Department, beginning 02/01/2015 **if sought**.

PENALTY ASSESSMENT - A.R.S. §12-116.04: Count 1 - \$13.00 payable on 02/01/2015.

Investigative Agency:

Scottsdale Police Department

Count 1: \$15.00 to the Technical Registration Fund payable on 02/01/2015.

All amounts payable through the Clerk of the Superior Court.

Condition 16 - Not consume or possess any substances containing alcohol.

Condition 17 - Count 1: Complete a total of 240 hours of community restitution. Complete a set number of hours per month as directed in writing by APD. Complete hours at a site approved by the APD.

Condition 22: Other - Defendant shall undergo and complete drug screening and substance abuse counseling. Any current drug rehabilitation program in which Defendant is participating may be deemed acceptable to meet this requirement.

IT IS FURTHER ORDERED that Defendant shall submit to fingerprint identification processing by the Maricopa County Sheriff's Office if directed to do so by the Adult Probation Department. The Adult Probation Department shall direct any Defendant placed on probation who has not already had a State Identification Number (SID) established to submit to fingerprint processing.

Defendant is advised pursuant to A.R.S. § 13-805 that failure to maintain contact with the Probation Department may result in the issuance of:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

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2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

IT IS ORDERED granting the Motion to Dismiss the following: Counts 2 and 3.

IT IS FURTHER ORDERED that Defendant must submit to DNA testing for law enforcement identification purposes in accordance with A.R.S. §13-610.

10:38 a.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.

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Defendant's right index fingerprint is permanently affixed to this sentencing order in open court.

/s/ HONORABLE BRUCE R. COHEN
JUDGE OF THE SUPERIOR COURT

(right index fingerprint)